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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Michel Abittan
Appl. No. : 10/581,233
Filed : August 3, 2006
Title : Faceted Gemstone

Grp./A.U. : 3677
Examiner : David C. Reese

Docket No. : ABAL5001

RULE 1.132 DECLARATION OF ALAN NECHEMIAS

I, Alan Nechemias, do hereby declare:

1. I am a resident of the State of North Carolina, am above the age of eighteen (18) years, and am not subject to any legal disabilities.
2. I am employed as an appraiser by Grimball Jewelers in Chapel Hill, NC. I am a Graduate Gemologist of the Gemology Institute of America and a Certified Gemologist in the American Gem Society. I have worked as a gemologist for thirty (30) years.
3. I subscribe to numerous gemology journals. I regularly read articles and advertisements relating to new and historic cuts and quality of gems.
4. Over the years, I have become very knowledgeable regarding the types of precious stone cuts that are available and the respective attributes, advantages and disadvantages, of each.
5. I have examined a 0.96 Carat diamond specimen described as "Occasional Brilliant from faceted rock, 100% Diamond, Natural Colour natural Diamond" ("Abittan diamond").

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6. I found the Abittan diamond to have a surprising number of facets for its size and a lot of scintillation. The stone had a remarkable amount of sparkle for its cut grade, which made it more aesthetically attractive than would be expected.
7. I have also examined the design patent numbered D35,937.
8. One skilled in the art can see that the facets of the stones featured in the above referenced design patent are not similar to those on the Abittan diamond. The facets on the Abittan diamond are tiny and asymmetrically shaped. Nearly all the facets on the D35,937 stone are symmetrical. The goal in traditional diamond cutting is to be more symmetric, not less as in the Abittan diamond.
9. In all my experience, I have never seen a diamond cut in the manner of the Abittan diamond and am not aware of similarly cut gemstones on the market.
10. The Gemology Institute of America (GIA) is a recognized standard authority for grading gemstones. The Abittan diamond cut according to GIA standards would receive a poor or fair cut grade. In contrast to what would be expected of a poor cut grade, the Abittan diamond has unexpected sparkle and aesthetic appeal.
11. Furthermore, I have also examined the design patents numbered D39,632; D40,693; D43,724; and D36,103. The drawings in these patents also show stones in which the majority of facets are symmetrical, dissimilar to the facets of the Abittan diamond.
12. I am familiar with the problem of carat weight loss created during conventional diamond cutting processes. Because of the way the Abittan diamond is cut, there is minimal weight loss, thus allowing the use of more stone than expected given the quality of the stone.

FROM : GRIMBALL AND STOKES JEWELERS FAX NO. :
Oct. 15. 2007 5:02PM OLIVE & OLIVE, PA.

Oct. 15 2007 12:58PM P1
No. 0965 P. 5

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13 It is traditional to cut large facets to make a stone transparent to light such that light reflects back from the internal part of the stone. In stones cut according to the design patents cited above, most light would be reflected by the pavilion, not by the surface of the stone. In the Abittan diamond, the sparkle comes from having many tiny facets reflecting light from the surface and not from the interior of the stone. Thus, it is my opinion that although it is well known to change the size, shape, and angles of facets to affect the aesthetics of gemstones, cutting such tiny facets and at the angles displayed in Abittan's stone, is contrary to convention, provides unexpected sparkle and preserves more carat weight than one skilled in the art would foresee, given the quality of the stone.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed by me on the date set forth below.

Signature: Alan Nechemias
Printed Name: Alan Nechemias
Date: 10-15-07